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**MONTANA EIGHTH JUDICIAL DISTRICT COURT,
CASCADE COUNTY**

STATE OF MONTANA,

Plaintiff,

vs.

KENNETH JAMES HATZENBELLER,

Defendant.

Cause No. DDC-16-319

**SENTENCING ORDER
AND JUDGMENT**

1. On July 3, 2017, the above-named Defendant appeared with counsel for sentencing. As part of a PLEA AGREEMENT, Defendant pleaded NOLO CONTENDERE to Count V, FRAUDULENT SECURITIES PRACTICES (common scheme), a Felony, in violation of §§30-10-301(b), 30-10-306, 45-2-101(8), MCA. As part of the PLEA AGREEMENT, the State agreed to dismiss Counts I, II, III and IV. The Court ORDERS dismissal of Counts I, II, III and IV.

It is the sentence and judgment of this Court as follows:

2. Count V, FRAUDULENT SECURITIES PRACTICES (common scheme), a Felony, in violation of §§30-10-301(b), 30-10-306, 45-2-101(8), MCA.

☒ The imposition of sentence is **Deferred** for a period of 6 years, to be served **concurrent** with the sentence in *U.S. v. Hatzenbeller*, Docket No. 0977 4:16CR0071-001. The sentence in the Federal matter arises out of the same conduct as that supporting the Defendant's plea in this case. As such, it is a concurrent conviction, and not a prior conviction.

☐ The Defendant is committed to the **Department of Corrections** for a period of _____ year(s), with _____ years suspended.

☐ The Defendant is sentenced to the **Montana State Prison** for a period of _____ years, with _____ years suspended.

☐ The Defendant is sentenced to the **Cascade County Detention Center** for a period of _____ with _____ suspended.

Credit for time served: Defendant is given credit for 0 days of time served.

Concurrent/Consecutive provisions: The sentence in this case shall run **CONCURRENT TO THE SENTENCE** in *U.S. v. Hatzenbeller*, Docket No. 0977 4:16CR0071-001.

CONDITIONS

The Court orders that any deferred or suspended portions of sentence(s) shall be conditioned upon the Standard Conditions of Release.

Additional provisions and recommendations:

The Defendant is required to obey all laws.

Restitution:

1. The Defendant shall pay restitution in the total sum of \$ 1,761,897 to the victims listed and in the amounts shown in the **AMENDED Exhibit A** to the Plea Agreement to which the parties stipulated and which was admitted during the sentencing hearing. Exhibit A is attached hereto and incorporated herein by this reference.
2. The Court expressly waives interest on restitution for the reasons set forth by Hon. Brian Morris in the Federal cause, and considering the undisputed evidence of the Defendant's bankruptcy.

3. The Defendant shall begin paying restitution after his release from Federal incarceration.
4. The rate of payment of restitution shall be determined by Adult Probation & Parole.

Financial Conditions and Provisions:

NA.

Reasons for the Sentence:

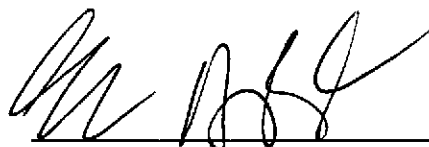
1. The sentence the Court enters considers and is consistent with the plea agreement and recommendations of the State and the Defendant. Although the State commented to the press after the hearing on sentencing that it expected a harsher sentence, neither the plea nor this sentence would not have been entered without the State's express agreement and representations that this sentence was appropriate under the facts of this case. The State and the Defendant argued in support of the very sentence entered by the Court, with the exception that the State urged the Court to assess interest. However, Exhibit "A" to the Plea Agreement, agreed to by the State, describes restitution, and does not include interest.
2. The sentence considers the PSI in the related Federal proceeding, *U.S. v. Hatzenbeller*, Docket No. 0977 4:16CR0071-001, by agreement of the State and the Defendant.
3. The parties agreed that the same conduct underlies the convictions in this matter and in the Federal proceeding. Thus, the Federal conviction is concurrent to this one, and is not a prior conviction which would prohibit a deferred sentence under §46-18-201(1)(b), MCA.
4. Further, under §46-18-222(3), MCA, because the undisputed evidence admitted at the hearings on the Defendant's Motion to Dismiss and sentencing, demonstrates that at the time of the commission of the offense, Defendant was acting under unusual and substantial duress, the facts support an exception to the restriction on imposition of a deferred imposition of sentence.

5. This sentence considers the position and input of the victims. Several victims, including Defendant's partners and some investors, provided input to the Court, in which they detailed the sense of betrayal of trust, the severe mental, emotional and physical injury they and their families have suffered as the result of Defendant's conduct, which decimated decades of retirement savings, destroyed reputations, humiliated the victims, and caused many of them to require medical treatment. Many of the victims now have been forced to put off retirement, or return to the workforce from retirement, to financially support themselves and their families. Investor Jerry Hall testified in person, and other investors and Defendant's partners provided statements to the Court, which were admitted and are part of the record.
 6. The sentence provides for substantial restitution.
 7. The sentence considers that the Defendant is 65 years old, a beloved husband and father. It considers that the Defendant is thought of by many friends and family members as a loving, supportive, solid, and essential part of their lives.
 8. The sentence considers that the Defendant has destroyed his own financial future, reputation, and many relationships.
 9. The sentence considers that the Defendant has no prior criminal history.
 10. The sentence considers that Defendant has a bachelor's degree, and has been a contributing member of the work force for his entire adult life.
 11. The sentence considers that the Defendant's behavior reflects a willingness to betray the trust of many people. Although he says it was to keep paychecks funded for employees of his business, the Court believes that this is only a partial explanation, and that it is more likely that Defendant's hubris was so great that he believed he could survive a high stakes virtual pyramid scheme with the savings of others, and somehow reverse his bad fortunes before anyone got wind of the huge risk he was taking.
 12. The sentence provides for appropriate and substantial punishment or potential punishment.
 13. The sentence provides opportunity for Defendant's treatment or rehabilitation, and is in the best interest of the community.
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Bond, if any, posted by or on behalf of the defendant, is exonerated and shall be released.

If either party believes that the written Judgment filed herein does not conform to the oral pronouncement of this Court at the time of sentencing, either the Defendant or the State may request a hearing to modify the written, filed Judgment. **This request must be made by either the State or the Defendant within 120 days of the filing of the written Judgment.** In the event such request is made, a hearing will be held to consider the motion at which the Defendant must be present unless Defendant waives the right to be present. If no request for modification is filed by either the State or the Defendant within 120 days, the right to a modification hearing shall be waived.

DATED July 5, 2017.



Elizabeth A. Best, District Court Judge

cc: Mt. Comm'r Securities/B. Harris
County Atty/J. Racki
Def.'s Counsel/K. Olson
Defendant c/o attorney
AP&P (1 certified copies)
CCSO (1 certified copies)
Great Falls Police Department
Montana State ID
~~Montana State Prison or Montana Department of Corrections~~
Victims c/o Co Atty

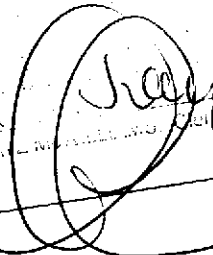
EXHIBIT A

Victim	Amount Owed
Jerry & Jan Hall	\$ 398,000
Michael Dube	45,000
David Anderson	27,000
Lonnie Anderson	29,000
Robert Goodnow	490,000
Tom & Karen Sidor	108,000
John Goodnow	554,000
Armond Hill	32,523
Lois Hatzenbeller	32,523
Peter Willson	45,851
TOTAL	\$1,761,897



STATE OF MONTANA } ss
County of Cascade

I hereby certify that the instrument is
correctly and lawfully recorded in the
office of the Clerk of Court.

11  1207
Deputy Clerk